

**REMARKS**

The foregoing amendment does not include the introduction of new matter into the present application for invention. Therefore, the Applicant, respectfully, requests that the above amendment be entered in and that the claims to the present application, kindly, be reconsidered.

The Final Office Action dated January 25, 2005 has been received and considered by the Applicants. Claims 1, 4-21 and 23-46 are pending in the present application for invention. Claims 1 and 4-12 stand rejected by the Final Office Action. Claim 2 is objected to by the Final Office Action for being dependent upon a rejected based but otherwise stated as being allowable.

The Examiner made the January 25, 2005 Office Action final based on the assertion that Applicant's amendment necessitated a new ground(s) of rejection. The Applicant hereby asserts the finality of the January 25, 2005 Office Action is premature. The MPEP §706.07 details when a Final Rejection is proper on second action.

"Under present practice, second or any subsequent actions on the merits shall be final, except where the examiner introduces a new ground of rejection that is neither necessitated by applicant's amendment of the claims nor based on information submitted in an information disclosure statement filed during the period set forth in 37 CFR 1.97(c)."

The previous amendment submitted October 7, 2004 by the Applicant amended Claim 1 of the present application for invention to include the limitations formerly contained within Claim 3. Claim 5 was then cancelled by the October 7, 2004 amendment to the claims. It should be noted that Claim 3 prior being cancelled depended from Claim 1. Therefore, claim 1 as amended by the October 7, 2004 amendment contains exactly the same limitations that were formerly contained within Claim 3. Accordingly, at least pertaining to Claim 1, the holding of finality is premature.

The Applicant, respectfully, requests that the Primary Examiner reconsider the holding of finality of the December 10, 2003 Office Action and withdraw the finality of the December 10, 2003 rejection. The foregoing amendment to the claims has been made to fully respond to a Final Office Action, which finality is fully anticipated to be withdrawn because it is premature. The Applicant, therefore, reasonably anticipates an opportunity to respond to a non-final office action, which response may include the rescinding of the changes made by the foregoing amendment.

The Final Office Action rejects Claims 4- 7 under the provisions of 35 U.S.C. §112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention. The Examiner states that these claims depend from a cancelled claim rendering them indefinite. The foregoing amendment to the claims has corrected this oversight by altering the dependency of these claims to Claim 1. These claims formerly depended from Claim 3 the limitations of which have been added to Claim 1 therefore, this amendment should be entered.

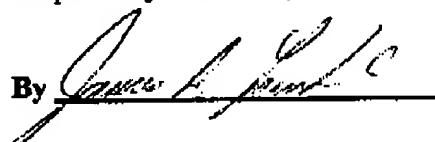
The Office Action rejects Claims 1, 7-9 and 12 under the provisions of 35 U.S.C. §102(b) as being anticipated by U.S. Patent No. 5,488,419 issued to Hui et al. (hereinafter referred to as Hui et al.). The Examiner states that Hui et al. teach the subject matter defined by the rejected claims. The Final Office Action further states that the subject matter of Claim 2 is allowable. The foregoing amendment to the claims has incorporated the limitations of Claim 2 into Claim 1. Therefore, Claims 1, 7-9 and 12 are believed to be allowable.

The Final Office Action rejects Claims 10-11 under the provisions of 35 U.S.C. §103(a) as being unpatentable over Hui et al., in view of U.S. Patent No. 5,790,174 issued to Richard III et al., (hereinafter referred to as Richard III et al.). The Examiner states that Hui et al. discloses a MPEG encoding and decoding system, but does not particularly disclose "determining dynamically real time a likely local nature" address the real time nature as claimed. The Examiner further states that Richard III et al. teach that for compression technique using Motion Estimation, Motion-Compensation Predictive Coding and Adaptive Discrete Cosine Transform (DCT) Quantization is supported by the International Standards Organizational (ISO) Moving Pictures Expert Group (MPEG). Claim 1 has been amended to incorporate the features of Claim 2. The applicant respectfully submits that the feature of utilizing a vertical component of the motion vector to determine a likely local nature of a reference frame data area in the data stream is not found in either of the cited references, Hui et al. or Richard III et al. Therefore, Claims 10-11 are believed to be allowable over the cited references.

Applicant is not aware of any additional patents, publications, or other information not previously submitted to the Patent and Trademark Office which would be required under 37 C.F.R. 1.99.

In view of the foregoing amendment and remarks, the Applicant believes that the present application is in condition for allowance, with such allowance being, respectfully, requested.

Respectfully submitted,

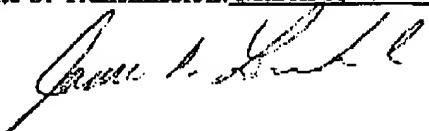
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